



**FORT MYERS BEACH  
LOCAL PLANNING AGENCY (LPA)  
MINUTES**

Town Hall – Council Chambers  
2523 Estero Boulevard  
Fort Myers Beach, Florida  
**Tuesday, December 10, 2013**

**I. CALL TO ORDER**

Meeting was called to order at 9:03 a.m. by Chair Zuba; other members present:

Chuck Bodenhafer  
Al Durrett – excused.  
John Kakatsch  
Jane Plummer  
Joanne Shamp  
James Steele  
Hank Zuba

LPA Attorney: Marilyn Miller  
Staff Present: Walter Fluegel, Community Development Director  
Leslee Dulmer, Zoning Coordinator  
Josh Overmyer, Planning Coordinator  
Keith Laakkonen, Environmental Sciences Coordinator

**II. PLEDGE OF ALLEGIANCE**

**III. INVOCATION**

**IV. MINUTES**

A. Minutes of October 8, 2013

B. Minutes of November 12, 2013

Zoning Coordinator Dulmer explained that at the November meeting Vice Chair Shamp requested some clarification regarding her comments; therefore, there was a clarification made to the October 8, 2013 minutes and the request was noted in the November 12, 2013 meeting minutes.

**MOTION:** Ms. Shamp moved to approve the Minutes for October 8, 2013; second by Mr. Kakatsch.

**VOTE:** Motion approved, 6-0; Mr. Durrett was excused.

**MOTION:** Ms. Shamp moved to approve the Minutes for November 12, 2013; second by Mr. Steele.

**VOTE:** Motion approved, 6-0; Mr. Durrett was excused.

V. **PUBLIC WORKSHOP**

A. DCI2012-0002 Matanzas Inn CPD Amendment

Zoning Coordinator Dulmer reported that staff was requesting a continuance of DCI2012-0002 Matanzas Inn CPD Amendment since it was discovered in the analysis portion that additional time would be required to present all the facts for the case. She announced that staff met with the Applicant and the property owner yesterday; it was discussed and agreed by staff, the Applicant, and property owner to move the case to the January LPA Meeting; and that the Applicant was not present today but had asked staff to request the continuance.

**MOTION:** Mr. Bodenhafer moved to approve the requested continuance of DCI2012-0002, Matanzas Inn CPD Amendment, to the January 14, 2014 LPA meeting; second by Ms. Plummer.

**VOTE:** Motion approved, 6-0; Mr. Durrett was excused.

B. Leonardo Arms Upland Retaining Wall Special Exception

Chair Zuba opened the Public Hearing.

Chair Zuba asked if any LPA Board Member had ex-parte communication regarding this item. Mr. Durrett – excused; Mr. Kakatsch – site visit; Mr. Smith: - site visit; Chair Zuba – site visit; Mr. Steele – reported he owned a 50% interest in a unit at Leonardo Arms (Unit 524) and he would abstain from voting; Ms. Plummer – site visit; Ms. Shamp – site visit; Mr. Bodenhafer – site visit.

Mr. Steele completed Form 8B, Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers, and submitted the form to the Town Clerk which listed Disclosure of the Local Officer's Interest:

I, James Steele, hereby disclose that on December 10, 2013; a measure came or will come before my agency which inured to my special private gain or loss; the Leonardo Arms Upland Retaining Wall Special Exception; and I must abstain from this issue due to me owning a 50% interest in a unit at Leonardo Arms (Unit 524).

LPA Attorney Miller swore in the witnesses.

Mark Damon, Engineer with Humiston and Moore Engineers, presented comments for SEZ2013-0004, Leonardo Arms Special Exception for the Leonard Arms Beach Club Condominium, on behalf of the Applicant. He utilized a PowerPoint presentation and reviewed the following aspects of the special exception request:

- Description of the location of the subject property (aerial location map displayed)
- Shoreline evolution of the subject property beginning in 1995 and compared to aerial photographs of the subject site in 1999, 2005, 2008, 2010, 2012; presentation slides depicted the type of shoreline erosion that had occurred at the Leonardo Arms Condominium site and graphs on the shoreline profile evolution.
- Timeline of the project indicating the involvement of Humiston and Moore Engineers with the project (beginning March 2012); the channel that had existed in front of the condominium which increased the erosion level and threatened the building; and what has been done at the site to date such as but not limited to the designed and permitted sandbags as a temporary measure and action taken to address damage caused by Tropical Storm Debby. It was reported that the DEP and Town Sand Bag Permit would expire 4/4/14.
- Brief description of the proposed design for an upland retaining wall (buried by design) and the placement of fill material.
- Special exception criteria –
  - based on recent years shoreline evolution and storm induced erosion changing conditions made the request appropriate;
  - the request was consistent with goals, objectives and policies of the Fort Myers Beach Comprehensive Plan;
  - the proposed wall would be a buried retaining wall located as close as feasible to the existing building and would be located landward of the existing temporary sand bags and Critical Wildlife Area (CWA);
  - the proposed project was outside the CWA, the dune restoration and planting would help restore the natural habitat;
  - the proposed wall would be buried, the design would help reduce potential detriment to existing property, and placement of existing rocks at the two of the wall corners would help reduce effects to adjacent properties if the wall was to become exposed and to directly interact with incoming waves;
  - and upon approval of the special exception, the project would be in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use of the property.

Vice Chair Shamp noted the Report prepared by Humiston & Moore Engineers dated June 2013 (Page 2), as it pertained to information that since 1990 the Little Estero Island shoals had retreated rapidly (approximately 650 feet of shoreline has receded from the section of the beach directly in front of the subject condominium – approximately 38 feet/year); and the impact of utilizing sand for other renourishment projects (i.e. Big Carlos Pass). She discussed her views on:

- How the shoreline was a reflection of the inlets on either end;
- Problems facing Leonard Arms;
- Mismanagement of Big Carlos Pass and taking some of the sand for beach renourishment to the south;
- Contingency plans for beach renourishment to the south which talked about the County and the State paying for mitigation of negative impacts (i.e. August 2003/DEP Permit #0173059001JC and 0200803-001-JC).

She questioned if the Leonardo Arms Condominium would be paying all the costs for the wall and the sand; and have they already paid for all of the associated expenses up until now; and if so, she noted her concerns regarding the costs incurred solely on the condominium.

Mark Damon, Engineer with Humiston and Moore Engineers responded in the affirmative.

Mr. Bodenhafer asked if sand could be taken out of Big Carlos Pass and used as part of the project.

Mark Damon, Engineer with Humiston and Moore Engineers responded in the affirmative; however, he noted Leonardo Arms was not part of the County's program for beach renourishment.

Chair Zuba suggested Mr. Damon might consider contacting the County with regard to the issue.

Mark Damon, Engineer with Humiston and Moore Engineers noted that Leonardo Arms did not have public access; therefore, the condominium would not have access to public funds for renourishment.

Ms. Plummer asked if Mr. Damon had been in contact with the 'group dealing with Big Carlos Pass'.

Mark Damon, Engineer with Humiston and Moore Engineers responded in the negative; and added they were not in "*direct*" contact with the group.

Mr. Steele questioned the cost of the proposed project and to include the expenses already paid.

Mark Damon, Engineer with Humiston and Moore Engineers reported the wall had not been "*priced out*" yet since they were in the permitting process, and price would depend upon final design. He added the wall could cost from approximately \$600-1,500 per linear foot (300' wall).

Discussion ensued regarding the proposed wall that was only along Building #2; and on Building #1 to the south.

Mark Damon, Engineer with Humiston and Moore Engineers, indicated Building #2 was the most vulnerable property at the site; and when a permit was applied for with the DEP a “vulnerability analysis” must accompany the request. He stated, at this time, they [Humiston and Moore Engineers] did not feel that Building #1 was as vulnerable and Building #2.

Mr. Kakatsch questioned the proposed “curve” and asked if it would impact the neighboring property (Estero Beach and Tennis Club).

Mark Damon, Engineer with Humiston and Moore Engineers, indicated the neighboring property would not be required to install a similar wall unless there were equal conditions that caused erosion to progress so much that Estero Beach and Tennis Club also became vulnerable.

Vice Chair Shamp questioned if the two terminal groins installed at Bonita Beach Project in 1995 would have been too far south to have impacted the subject property.

Mark Damon, Engineer with Humiston and Moore Engineers, responded in the affirmative; and added the area of influence for the subject property came from Big Carlos Pass, and that their study did not include a regional study of the Pass. He added that the study focused on trying to permit the wall for Leonardo Arms and the regional changes in the area, but they did not do an in-depth study of what had gone on with the Pass.

Chair Zuba questioned the project schedule (drawings and installation) if the request was approved by the LPA and Town Council.

Mark Damon, Engineer with Humiston and Moore Engineers, indicated his firm was waiting for a Letter of Consistency from the Town that would come after approval by the Council; however, he was unaware of the timeframe for the DEP to approve the permit.

Discussion ensued regarding an estimated timeline for the project; predictability for the solution long-term; and the experience of Humiston and Moore Engineers with the permitted upland seawalls in Palm Beach County where severe erosion was experienced.

**Dr. Dabeese 33:03** of Humiston and Moore Engineers, discussed elements impacting the subject property such as but not limited to the fact that the site location was on an inlet with a curvature; the natural evolution of an inlet; and the proposed wall design. He noted that the proposed project was the most recommended path forward for the Applicant.

Ms. Plummer asked if the engineers had plans to address the situation if the project was not completed by the April 4, 2014 permit deadline.

Mark Damon, Engineer with Humiston and Moore Engineers, reported currently there were no plans in place, but there could be discussions with the Town or the DEP to further extend the permit. He added

the conditions at the Leonardo Arms were not presently as critical as they were in 2012; however, his firm would make every effort to move forward and be ready to for the deadline.

Mr. Steele questioned the sustainability of the proposed wall.

Mark Damon, Engineer with Humiston and Moore Engineers, indicated the proposed wall would probably sustain up to a 50-year storm; and explained the wall would be at grade level.

**Dr. Dabeese** 39:44 of Engineer with Humiston and Moore Engineers, noted a '15-year wall' was a State requirement for the level of vulnerability.

Mark Damon, Engineer with Humiston and Moore Engineers, addressed the Staff Report recommendations; and noted the Applicant had two comments regarding the recommended Condition #2 and Condition #3 (he distributed his written comments to the LPA).

Environmental Sciences Coordinator Laakkonen, presented comments for SEZ2013-0004, Leonardo Arms Special Exception for the Leonard Arms Beach Club Condominium, on behalf of the Town of Fort Myers Beach. He displayed a PowerPoint presentation which included but was not limited to an aerial photograph of the site, and he noted the location of the subject property at 7400 Estero Boulevard. He reviewed the Applicant's special exception request:

- Aerial photograph indicating the Little Estero Island Critical Wildlife Area boundaries.
- Subject property 'low spot' and sandbag line.
- Special exception request for an upland retaining wall seaward of the 1978 Coastal Construction Control Line in the Environmentally Critical Zoning District.
- Zoning – Mixed Residential (upland of the 1978 CCCL) Environmentally Critical (upland retaining wall location).
- Future Land Use – Residential Multi-Family Recreation (upland retaining wall location).
- Proposed Site Plan – photographs displayed and it was noted where the boundaries of the CWA and the 1978 CCCL were located in relation to the subject property; that the subject buildings were constructed prior to the 1978 CCCL; proposed dune planting and vegetation (fill area), and the changes in angles on the wall.
- Request for a 300' long upland retaining wall; construction of a dune including 420 yards<sup>3</sup> of beach compatible sand [same grain size and color]; and burying 10 yards<sup>3</sup> of rip rap along the base of the wall.

He reviewed the supporting regulations according to Section 34-88 Special Exceptions:

- Function – Town Council shall hear and decide all applications for special exceptions permitted by the district regulations.
- Considerations – In reaching its decision the Town Council shall consider the following, whenever applicable:
  - Section 34-88(2)(a) – accelerated erosion and lack of sediment input have created changing conditions that make the request appropriate. Staff anticipates that the erosion in the CWA may continue. Preliminary shoreline analysis by the Town's coastal engineering consultant,

Coast and Harbor Engineering, suggest that the CWA was a nodal point and future shoreline change was likely.

- It was also possible that the shoreline has stabilized but the dynamics along the CWA and the possibility of future storm events make it impossible to forecast shoreline change accurately. In staff's opinion, an upland retaining wall was the best possible option to protect the upland building and it was an appropriate request. Slides were utilized [aerial photographs entitled "Sediment Transport near Leonardo Arms" 1995 and 2012 were provided by Humiston and Moore Engineers] and discussed to show the sediment movement in the area which showed the prevailing wave climate from the southwest, sediment transport bifurcates, shoreline response and adjustments with erosion and accretion responses, and the CWA erosion of subject property.)
- Section 34-88(2)(e) – whether the request was consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.
  - Since the Applicant was proposing an upland retaining wall and has minimized potential negative impacts, the proposed project does not conflict with the Comprehensive Plan.
- Section 34-88(2)(f) – whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
  - The location of the upland retaining wall was located in the EC and beyond the 1978 CCCL which necessitates a Special Exception. The Applicant has proposed to place the upland retaining wall as close to the building as possible which minimizes negative impacts to the beach and CWA.
- Section 34-88(2)(g) – whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
  - Staff's opinion was that the need for this project to protect the upland building and the measures proposed by the Applicant to reduce impact to the shoreline incorporated into the project minimizes risk to the beach system and the subject property. Placing the upland retaining wall landward of the active beach system and creating a dune, implements the best coastal management practices for the project. The dune vegetation will also support sea turtle nesting which does not currently exist in this area.
- Section 34-88(2)(h) – whether the request would be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
  - The inability to predict future shoreline dynamics with certainty introduces a risk of potential future erosion resulting in conditions that may result in hazard to neighboring properties. When designing and analyzing projects that interact with the natural environment, consideration should be given to outcomes on either end of the spectrum. In the case of the proposed upland retaining wall, the Applicant has developed a very reasonable and logical project approach that seeks to minimize potential negative environmental impacts while protecting the upland property.

- It was also possible that future erosion could fully expose the upland retaining wall and alter long-shore currents and wave refraction which could result in erosion of neighboring properties. If the upland retaining wall would be exposed in the future, it would functionally become a seawall which would possibly have impacts on neighboring properties and the beach in front of the Leonardo Arms.
  - Section 34-88(2)(i) – whether the requested use would be compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34.
    - The very nature of this request was not in compliance with general zoning provisions in LDC Chapters 26 and 34. This type of project; however, is contemplated by the LDC and Sections 26-77(b) and 34-652(e)(1) which require a special exception for “*a hardened surface along the Gulf of Mexico*” (26-77(b) and 34-652) and for “*Accessory structures to include any building, structure, or impervious surface area which is accessory to a use permitted by right or by special exception in the EC District (34-652(e)(1))*”.
    - Staff recommended finding that the requested use, as conditioned, was in compliance with applicable zoning provisions and supplemental regulations pertaining to the use and allowed by a special exception in LDC Section 34-88.

Environmental Sciences Coordinator Laakkonen offered a recommendation:

- Taking into consideration the current and existing conditions of the subject property, staff recommended approval of the construction of an upland retaining wall in the Environmentally Critical zoning district and recommended the following conditions for approval:
  1. If the building was ever demolished due to redevelopment or acts of nature, the upland retaining wall and rip rap must be removed and the property be brought to compliance.
  2. If the wall was ever exposed due to avulsion from a storm event, the dune vegetation must be replanted once the beach returns to its pre-storm profile within 12 months of the storm event.
  3. If the wall was ever exposed due to avulsion from a storm event and sand was lost from in front of the wall, the beach in front of the seawall must be restored by means and nourishment once the beach returns to its pre-storm profile if the wall does not become naturally buried again in 12 months of the storm event.
  4. Daily monitoring is conducted during construction to ensure that wildlife, particularly sea turtles, beach nesting birds, and shorebirds are not impacted by construction activities.
  5. The dune vegetation should be planted on 12” by 12” spacing and be composed of native sea oats (*Uniola paniculata*), dune sunflower (*Helianthus debilis var. vestitus*) panic grass (*Panicum amarum*), and railroad vine (*Ipomoea paniculata*).
  6. The dune vegetation must achieve 80% plant survival after 6 months.

Vice Chair Shamp noted her appreciation of staff’s analysis to “*attempt to strike a balance between conservation of the beach system and protection of private property rights*”; and her support of the request. She explained how she did not want the proposed request to be considered a “*recreational thing*” in order to expand an accessory use of the subject property and then later become a precedent for people wanting to install decks, etc. She pointed out how critical the upland retaining wall was to the



subject property. She questioned aspects of the proposed project such as but not limited to if there was some way of sharing costs for the proposed projects; a way for the Town to file with the condominium with the DEP; and was there a potential for a terminal groin for when the sand migrates so it would not go south.

Environmental Sciences Coordinator Laakkonen discussed the following:

1. His discussion with the County staff concerning what the DEP designation for critical erosion; and the possibility of contacting the State to 'make a case' on critical erosion for the CWA.
2. Comprehensive Plan section that allowed for neighborhood taxing districts for erosion control issues.
3. Currently there were processes occurring in the CWA and the Pass; the Town's commitment to alternative analysis; and how Coast and Harbor Engineering [Town's consultant] was working on a shoreline analysis which would be presented to Town Council in approximately January.

Discussion was held concerning staff's recommended Condition #1 as it pertained to why the retaining wall should be removed if the subject building was ever demolished.

Ms. Plummer asked if staff had reviewed the Applicant's comments regarding Conditions #2 and #3 and did staff agree with the Applicant.

Environmental Sciences Coordinator Laakkonen stated staff had reviewed the Applicant's response to Conditions #2 and #3 and staff accepted the changes as proposed by the Applicant.

Chair Zuba questioned consequences for the condition related to dune vegetation survival of 80%.

Environmental Sciences Coordinator Laakkonen explained if the dune vegetation survival was less than 80% the Applicant would be required to replant.

Discussion was held regarding whether there were other properties/buildings in the Town that might face a similar situation or threat; and it was determined there were no other properties/buildings in the Town at the moment.

Mr. Kakatsch recounted how years ago someone illegally removed mangroves which he believed negatively impacted the Estero Beach and Tennis Club and the adjoining property (Leonardo Arms); and questioned the importance of the mangroves.

Environmental Sciences Coordinator Laakkonen reviewed the function of the mangroves in a mid-tide area; and the impact of Hurricane Ike to the Gulf which he believed had a big impact to the sediment on the mangroves.

Public Comment opened.

Roz Tooper, resident of Leonardo Arms (#610), discussed her concerns such as but not limited to:

- Many condominium residents had not arrived yet, or others had left for the holidays; and the lack of attendance by the Leonardo Arms residents, as well as residents from neighboring properties, in order to give comments on the matter.
- Today's date and the early time of the Public Hearing as it pertained to the ability/inability of senior property owners to attend due to conflicting medical appointments, etc.
- Time for neighboring property owners to research the impact of the situation to their property.

She suggested the Public Hearing should be continued or rescheduled until after the holidays.

Mark Pergoli, representing Riviera Club Condominium, echoed the prior speaker's comments and noted his concerns regarding the swiftness of the project; and suggested taking more time to review the project and possibly a "*fresh set of eyes*" look at the project. He questioned if there would be a financial impact to the adjoining property owners for the proposed project.

Elizabeth Suprosky, Leonardo Arms resident (President of Building #1), reported the Leonardo Arms Condominium Association would be utilizing approximately \$90,000 of their funds for the sandbags and services of Humiston and Moore. She added the condominium would appreciate financial assistance if available.

Chair Zuba asked Ms. Suprosky to offer a brief timeline on the issue.

Ms. Suprosky (President of Building #1) reported the beginning of the situation seemed to be when the first sandbags were installed in 2012. She added at one point there was water entering Building #2; however, since the sandbags were installed that had not occurred again. She explained that notices were not sent to the Leonardo Arms residents just yet because they were waiting to see what would be approved today, and then the Association would contact the residents to determine what the residents wanted to do about the building.

Environmental Sciences Coordinator Laakkonen clarified that Building #2 had the sandbag wall; that there were three different condo associations, and a master condo association. He reported the Town sent notifications, as required for special exceptions, to all property owners [within 500']. He added staff had extensive meetings with the Board Members for Building #2 starting before the sandbags were installed [January 2012]; and that he had attended a condo-wide board meeting about the issue.

Chair Zuba asked if the Board was the official Applicant.

Environmental Sciences Coordinator Laakkonen responded in the affirmative.

Ms. Plummer questioned the 'extension of the sandbags'.

Environmental Sciences Coordinator Laakkonen reported the request included the extension of the sandbags until there was either approval or denial of the request; once the request was approved or denied, the sandbag wall would have to be removed. He pointed out the sandbag wall was a 'temporary emergency measure'.

Public Comment closed.

LPA Attorney Miller read the preferred wording for approval:

*“a motion to approve the request for a Special Exception to allow construction of a 300’± upland retaining wall adjacent to Building #2 that is seaward of the 1978 Coastal Construction Control Line in the EC Zoning District as generally depicted in the preliminary permit plans attached hereto and incorporated herein as Exhibit B”*

**MOTION:** Vice Chair Shamp moved that the LPA recommend Town Council to approve the request for a Special Exception to allow construction of a 300’± upland retaining wall adjacent to Building #2 that is seaward of the 1978 Coastal Construction Control Line in the EC Zoning District as generally depicted in the preliminary permit plans attached hereto and incorporated herein as Exhibit B, with Conditions #1 through 6 as proposed with the replacement conditions [#2 and #3] proposed by the Applicant, and the Recommended Findings and Conclusions:

1. Changed or changing conditions do exist that make the requested approval, as conditioned, appropriate;
2. The requested special exception, as conditioned, is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan;
3. The requested special exception, as conditioned, meets or exceeds all performance and locational standards set forth for the proposed use;
4. The requested special exception, as conditioned, will protect, conserve, or preserve environmentally critical areas of natural resources;
5. The requested special exception, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property;
6. The requested special exception, as conditioned, will be in compliance with the applicable general zoning provisions and supplemental regulations pertaining to the use set forth in LDC Chapter 34.

**SECOND:** Ms. Plummer.

Vice Chair Shamp pointed out that the approval was not to be viewed as a precedent for expansion of recreational or commercial ventures into the Town’s Environmentally Critical Zone. She added that she supported the special exception request because it was an emergency situation to protect a building from being taken by a storm event.

Chair Zuba concurred with Vice Chair Shamp. He addressed Public Comment regarding the timeline that written testimony can be provided before the matter was scheduled before Town Council.

Community Development Director Fluegel expected the special exception request to be scheduled before Council in January 2014.

LPA Attorney Miller highlighted that the request was a zoning action; it shall require a DEP permit and the DEP will publish notice of their Intent to Issue which is a point of entry for adjoining property owners to avail themselves for comment.

**VOTE:** Motion approved, 5-0; Mr. Steele abstained and Mr. Durrett was excused.

**Recessed at 10:26 a.m. – Reconvened at 10:35 a.m.**

**MOTION:** Mr. Bodenhafer moved to adjourn as the LPA and reconvene as the Historic Preservation Board; second by Mr. Steele.

**VOTE:** Motion approved, 6-0; Mr. Durrett was excused.

**Adjourn as LPA and reconvened as Historic Preservation Board  
at 10:38 a.m.**

A. Resolution #2013-002 HPB, HDD2013-0001, Mound House Certificate of Appropriateness

Chair Shamp opened the Public Hearing.

Chair Shamp asked if any HPB Board Member had ex-parte communication regarding this item. Mr. Durrett – excused; Mr. Kakatsch – none; Mr. Smith: - none; Chair Zuba – none; Mr. Steele – none; Ms. Plummer – none; Mr. Bodenhafer – none; Chair Shamp – none.

Public Works Director Lewis discussed the purpose of Resolution #2013-002 HPB, HDD2013-0001, Mound House Certificate of Appropriateness on behalf of the Town of Fort Myers Beach. She explained the request would begin the restoration of the interior of the Mound House building; and was available to answer questions concerning the matter.

Mr. Zuba questioned the background or purpose of the proposed Resolution at this time.

Public Works Director Lewis offered a brief review of the site's archaeological importance, restoration, and provision for a museum. She noted the interior restoration was the final phase of the restoration process.

HPB Attorney Miller explained the Certificate of Appropriateness was a pre-requisite for obtaining the building permit to do the interior remodeling.

Discussion ensued regarding the many facets of the Mound House property; the archaeological work completed; lead paint abatement; prior Certificate of Appropriateness approvals by the HPB

[museum/underground exhibit, landscaping, and garage conversion]; requirements of a Certificate of Appropriateness for any work done to a designated historical resource; and when a Special Certificate of Appropriateness was required (i.e. – work involving alternation, demolition, relocation, reconstruction, excavation, or new construction that would result in a change to the original appearance of a designated historical resource).

HPB Attorney Miller noted the requirements of Section 22-103 as it pertained to having a full set of plans and specifications.

Mr. Bodenhafer questioned the status of the funding for the project.

Public Works Director Lewis reviewed the funding sources such as but not limited to a grant from the State and funding from the Town.

Planning Coordinator Overmyer reported staff reviewed the history of approvals of the subject property and the Comprehensive Plan as it pertained to achieving the end result of opening the property as a museum. He noted a Town Council Resolution #96-19 as it pertained to the site's historical and archaeological significance.

Mr. Zuba questioned the long-term ownership of the subject property; and suggested that future consideration be given to the sale of the building to a non-profit organization in order, as a community, to generate investor interest and tax credits, and additional grants that do not require public staff their continued efforts to locate funds.

HPB Attorney Miller expressed her belief that TDC funds were used for certain portions of work at the site; and pointed out that the Friends of the Mound House existed which was a 501(3)(c) fund raising arm of the Mound House. She added that the Town had received considerable grant funding from the State and she did not believe the Town could divest themselves from the property.

Discussion was held concerning the nature of the site being a 'commercial venture' within a residential area and potential mitigation of impacts to the surround residential neighborhood; the operational responsibility of the Parks and Recreation Department for the Mound House site and their on-going relationship with the neighborhood and related advisory board(s); and the anticipated opening of the subject site.

Public Comment opened.

Ceel Spuhler, Mound House volunteer, noted that until the site opened, the impact to the neighborhood was relatively uncertain, but the residents had been assured that the Town was working with them to keep it to a minimum. She reported the Mound House received many favorable comments from visitors. She noted her belief that the Mound House would be long lasting and be culturally renowned.

Chair Shamp questioned the status of national recognition for the Mound House.

Ceel Spuhler reported that the State had approved going forward with applying to the Federal government for national recognition.

Public Comment closed.

**MOTION:** Mr. Zuba moved to approve Resolution #2013-002 HPB, Mound House Certificate of Appropriateness, and approve the request for Special Certificate of Appropriateness and the Findings and Conclusions:

1. Town Council Resolution 96-17 contains specific guidelines related to any part of Applicant's request herein.
2. The findings and conclusions set forth below are inclusive of the criteria for issuance of a special certificate of appropriateness as referenced in LDC Section 22-101(b), including the Secretary of the Interior's Standards for Rehabilitation.
3. The property is being used for its historic purpose or being placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
4. The historic character of the subject property is being retained and preserved. The removal of historic materials or alternation of features and spaces that characterize a property is being avoided.
5. The subject property is being recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings are not being undertaken.
6. Most properties change over time; those changes that have acquired historic significance in their own right are being retained and preserved.
7. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property are being preserved.
8. Deteriorated historic features are being repaired rather than replaced. When the severity of deterioration requires replacement of a distinctive feature, the new feature do match the old in design, color, texture, or visual qualities and, where possible, materials. Replacement of missing features are being substantiated by documentary, physical, or pictorial evidence.
9. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials, are not being used. The surface cleaning of structures, if appropriate is being undertaken using the gentlest means possible.
10. Significant archaeological resources affected by a project are being protected and preserved. If such resources must be distributed, mitigation measures shall be undertaken.
11. New additions, exterior alterations, or related new construction under this application are not destroying historic materials that characterize the property. This new work is not being differentiated from the old and compatible with

the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

12. New additions and adjacent or related new construction is being undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

**Second:** Ms. Plummer.

**VOTE:** Motion approved, 6-0; Mr. Durrett was excused.

Public Hearing closed at 11:01 a.m.

Discussion was held concerning the historical designation discussion continued to January 14, 2014.

**MOTION:** Ms. Kakatsch moved to adjourn as Historic Preservation Board and reconvene as the LPA; second by Mr. Zuba.

**VOTE:** Motion approved, 6-0; Mr. Durrett was excused.

**Adjourn as Historic Preservation Board and reconvene as the LPA at 11:03 a.m.**

## **VI. LPA MEMBER ITEMS AND REPORTS**

Ms. Plummer – no items or report.

Mr. Steele - no items or report.

Mr. Bodenhafer – recounted his pleasurable experience visiting the Mound House.

Mr. Kakatsch – discussed his recent experience with placing telephone calls to either Town department heads or secondary staff; and his suggestion regarding the handling of telephone calls.

**MOTION:** Ms. Kakatsch moved to suggest a meeting be scheduled for next week with senior management regarding the handling telephone calls; second by Mr. Bodenhafer.

Community Development Director Fluegel noted the increase in the permitting environment for Town staff (i.e. building permits, maintenance-related permits, and new construction). He reported during the past three weeks staff had been inundated with informational requests on the elevated pool issue; and his time had been consumed with the elevated pool issue. He cautioned that the elevated pool issue would be a very complex matter with other issues involved (i.e. view corridors, landscaping, sheds, garages, etc.).

Discussion was held concerning Mr. Kakatsch's request for a meeting with senior management; whether DCD was functioning efficiently at this time; staffing capacity at Town Hall; the unusual volume of permitting requests and difficult upcoming issues for staff (i.e. elevated pools); and potential topic(s) for the meeting with senior management.

Chair Zuba suggested Director Fluegel schedule a meeting with himself and Mr. Kakatsch, and the Town Manager to address Mr. Kakatsch's concerns.

Discussion continued regarding communication within the Town (i.e. both staff and Council).

Community Development Director Fluegel explained the information requests regarding elevated pools have been from the public and not developers.

Discussion ensued regarding hours of operation for staff.

**VOTE:** Motion approved, 5-1; Chair Zuba dissenting; and Mr. Durrett was excused.

LPA Attorney Miller noted the meeting would require advertisement and be held as a public meeting. She noted her observation on the responsiveness of Town staff to public inquiries and telephone calls.

Community Development Director Fluegel pointed out that the timely responsiveness to the public on the issue of elevated pools had been a top priority of staff.

Chair Zuba requested an update on the discussion about flood insurance and possible incentives for redevelopment in compliance with current standards.

Vice Chair Champ – requested a discussion on the list of guideline/parameters for the meeting discussion.

Planning Coordinator Overmyer requested that the LPA provide a list of guidelines/parameters for the meeting discussion.

LPA Attorney Miller mentioned the FEMA Base Flood Elevations and the disincentive they provide for commercial redevelopment.

Discussion ensued regarding potential items to discuss at the meeting; pre-disaster build-back and post-disaster recovery; and consensus approved discussed pre-disaster first.

LPA Attorney Miller stated they may bring the topic of transfer of development rights to the LPA as well.

Mr. Durrett – excused.



Chair Zuba – no items or report.

**VII. LPA ATTORNEY ITEMS**

LPA Attorney Miller – no items or report.

**VIII. COMMUNITY DEVELOPMENT DIRECTOR ITEMS**

Community Development Director Fluegel – no items or report.

**IX. LPA ACTION ITEM LIST REVIEW**

No discussion.

**X. ITEMS FOR NEXT MONTH'S AGENDA**

No discussion.

**XI. PUBLIC COMMENT**

None.

**XII. ADJOURNMENT**

**MOTION:** Motion by Mr. Steele, seconded by Mr. Bodenhafer to adjourn.

**VOTE:** Motion approved, 6-0; Mr. Durrett was excused.

Meeting adjourned at 11:30 a.m.

Adopted \_\_\_\_\_ With/Without changes. Motion by \_\_\_\_\_

Vote: \_\_\_\_\_

\_\_\_\_\_  
Signature

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